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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER

NGUYEN, ANTHONY H

ART UNIT PAPER NUMBER

2854

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,430

Applicant(s)

COSTELLO, PAMELLA A.

Examiner

Anthony H Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the top surfaces of the keys which comprises braille system (claim 16) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the scope of the claims is unclear since applicant appears to be claiming a protective or a cover for a keyboard assembly per se - not a protective or cover in combination with a light beam which is in the infrared spectrum (claim 9) or the top surfaces of the keys which comprise Braille system indicators. Therefore, recitations of the structure or the characteristics of the light or the keys of the keyboard are not consistent with the claimed subject matter of a protective enclosure or cover for a keyboard assembly and are of no patent significance in claims drawn to the protective enclosure per se.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Nopper et al. (US 5,021,638) in view of King-DeBaun (US 6,285,299).

With respect to claims 1 and 18, Nopper et al. teaches the keyboard cover having substantially the structure and method as claimed. For example, Nopper et al. teaches a keyboard cover 24 having a top panel 28, a vertical side, front and rear panels as shown in Figs.3 and 3a of Nopper et al.

Nopper et al. does not teach the top panel which does not correspond to the depressions or elevation of a specific keyboard array.

However, King-DeBaun et al. teaches a keyboard cover 13 having a top panel (Fig.2, no numeral reference) or 18 as shown Fig.3 which does not correspond to the depressions or elevations of a keyboard 20.

Therefore, it would have been obvious to one of ordinary skill in the art to modify the keyboard of Nopper et al. by providing the top panel as taught by King-DeBaun et al. for simplicity in design of a keyboard cover.

With respect to claims 2, 3 and 10, Nopper et al. teaches the cover which includes elastomeric material such as silicone rubber (Nopper et al., lines 25-27).

With respect to claims 4 and 5, Nopper et al. teaches the plate 40 which overlays a portion of the obverse keyboard face.

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With respect to claim 6, the use of keyboard cover having side panels which has less elasticity than the a top panel is well known in the art.

With respect to claims 10-14 and 17, the selection of a desired material for forming the cover involves only an obvious matter of design choice based upon obvious experimentation.

With respect to claim 19, the steps of having at least one user “apply to said keyboard prior to use” and “removing prior to use of a said keyboard by another, of a personal, easily removable keyboard cover” would have been obvious to one of ordinary skill in the art of preventing or avoiding a transmission of disease since the steps of applying and removing a personal cover to an apparatus used by many users is well known. For example, a traveler uses a personal ear-phone cover provided by a fly attendant for listening music on an air plane.

With respect to claim 15, note that the keyboard cover of Nopper et al. having an opening 38 (Nopper et al., Fig.3 and 3a) which is smaller than the obverse face of the keyboard 36. Therefore, the cover is inherently stretched to permit entry of the keyboard.

Response to Arguments

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that claim 19 is proper since the language of the claim includes a step for performing the desired step.

This argument is persuasive. Accordingly, the rejection under 112 second paragraph is withdrawn.

Applicant argues that the rejection of claim 6 is inadequate since no basis is provided.

As explained in the previous Office Action, the keyboard cover which has side panels having less elasticity than a top panel is well known as exemplified by Matone (US 4,758,712),

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the prior art of record, which shows a protective keyboard assembly 30 having a top panel 60 which has more elastic than the side panels which can be made of steel, aluminum or plastic which have less elasticity (see Matone, Figs. 1 and 3, and col. 3, first and second paragraph) as recited in the claim.

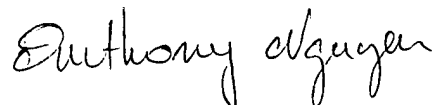
Therefore, there is no apparent unobviousness in the structure and method as recited in claims relative to the structure and method of the prior art as applied.

Conclusion

The patents to Stanley, Speraw, Larson and Borchard are cited to show other method and structures having obvious similarities to the claimed method and structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Nguyen whose telephone number is (703) 308-2869. The examiner can normally be reached daily from 9 AM to 5 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld, can be reached on (703) 305-6619. The fax phone number for this Group is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Anthony Nguyen
8/19/03
Patent Examiner
Technology Center 2800